§ 389.23

be identified with respect to document and page.

[80 FR 59073, Oct. 1, 2015]

§ 389.23 Consideration of comments received.

All timely comments are considered before final action is taken on a rule making proposal. Late filed comments may be considered as far as practicable.

§ 389.25 Additional rulemaking proceedings.

The Administrator may initiate any further rulemaking proceedings that he/she finds necessary or desirable. For example, interested persons may be invited to make oral arguments, to participate in conferences between the Administrator or his/her representative at which minutes of the conference are kept, to appear at informal hearings presided over by officials designated by the Administrator at which a transcript or minutes are kept, or to participate in any other proceeding to assure informed administrative action and to protect the public interest.

[78 FR 58482, Sept. 24, 2013]

§389.27 Hearings.

- (a) Sections 556 and 557 of title 5, United States Code, do not apply to hearings held under this part. Unless otherwise specified, hearings held under this part are informal, non-adversary, fact-finding procedures at which there are no formal pleadings or adverse parties. Any rule issued in a case in which an informal hearing is held is not necessarily based exclusively on the record of the hearing.
- (b) The Administrator designates a representative to conduct any hearing held under this part. The Chief Counsel of the Federal Motor Carrier Safety Administration designates a member of his/her staff to serve as legal officer at the hearing.

[35 FR 9209, June 12, 1970, as amended at 53 FR 2036, Jan. 26, 1988]

§ 389.29 Adoption of final rules.

Final rules are prepared by representatives of the office concerned and the Office of the Chief Counsel. The rule is then submitted to the Adminis-

trator for his/her consideration. If the Administrator adopts the rule, it is published in the FEDERAL REGISTER, unless all persons subject to it are named and are personally served with a copy of it.

 $[35\ FR\ 9209,\ June\ 12,\ 1970,\ as\ amended\ at\ 53\ FR\ 2036,\ Jan.\ 26,\ 1988]$

§389.31 Petitions for rule making.

- (a) Any interested person may petition the Administrator to establish, amend, or repeal a rule.
- (b) Each petition filed under this section must:
- (1) Be submitted in duplicate to the Administrator, Federal Motor Carrier Safety Administration, 1200 New Jersey Ave., SE., Washington, DC 20590–0001:
- (2) Set forth the text or substance of the rule or amendment proposed, or specify the rule that the petitioner seeks to have repealed, as the case may be:
- (3) Explain the interest of the petitioner in the action requested;
- (4) Contain any information and arguments available to the petitioner to support the action sought.

[35 FR 9209, June 12, 1970, as amended at 45 FR 46424, July 10, 1980; 53 FR 2036, Jan. 26, 1988; 72 FR 55702, Oct. 1, 2007]

§389.33 Processing of petition.

- (a) Unless the Administrator otherwise specifies, no public hearing, argument, or other proceeding is held directly on a petition before its disposition under this section.
- (b) Grants. If the Administrator determines that the petition contains adequate justification, he/she initiates rule making action under this Subpart R
- (c) Denials. If the Administrator determines that the petition does not justify rule making, he/she denies the petition.
- (d) Notification. Whenever the Administrator determines that a petition should be granted or denied, the Office of the Chief Counsel prepares a notice of that grant or denial for issuance to the petitioner, and the Administrator issues it to the petitioner.

[35 FR 9209, June 12, 1970, as amended at 53 FR 2036, Jan. 26, 1988]